

## **REMARKS**

### **I. Status of Claims**

In the Office Action mailed December 30, 2010, claims 14-23 were pending.

Claim 14 was rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement, and under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In addition, all pending claims 14-23 were rejected under 35 U.S.C. § 103.

In the present response, claim 1 has been amended as shown above to include subject matter from dependent claim 18, and dependent claim 18 has been canceled. Dependent claims 19 and 21 have been amended to change dependencies to claim 14. In addition, claim 24 has been added. No new matter has been added. Applicant requests reconsideration of the pending claims in view of the remarks below.

### **II. Response to the Rejection of Claim 14 under 35 U.S.C. § 112**

Claim 14 was rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner stated that the specification does not mention a web browser page.

Claim 14 was also rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner stated that it is unclear as to what is meant by a web browser page.

Applicant asserts that a web browser page is well-known in the art as a webpage, or a page of information content on a web browser. To further prosecution, Applicant has amended claim 1 to recite "a pump information screen" and "a web browser screen".

Applicant requests withdraw of the rejections of claim 14 under 35 U.S.C. § 112.

### **III. Response to Rejection of Claims 14-19 and 21-23 under 35 U.S.C. § 103**

Claims 14-19 and 21-23 were rejected under 35 U.S.C. § 103 as being unpatentable over US Pub. 2002/0038392 (De La Huerga) in view of USP 7,154,397 (Zerhusen). Applicant asserts that the subject matter in the claims as a whole would not have been obvious in view of De La Huerga and Zerhusen.

**A. The combination of De La Huerga and Zerhusen does not describe an infusion pump comprising "a processor that acts as a web server disposed in the pump housing, wherein the processor is configured to communicate with a web browser client device that is remote from the infusion pump", as in independent claim 14.**

Claim 14 has been amended to include subject matter of dependent claim 18, and dependent claim 18 has been canceled.

The Examiner stated that the "web server" limitation of claim 14 was met by De La Huerga in paragraph 145 including a description of a controller portion of the pump including a processor and accessible memory; and in paragraph 149 including a description of the processor linked to a communication channel such as an intranet or the Internet for communication with other facility or remote computing and storage devices. (*Office Action*, 12.30.10, p. 4). The Examiner quoted the same description in De La Huerga for allegedly describing subject matter previously within dependent claim 18 (e.g., claim 18: "wherein the processor is configured to communicate with a web browser client device that is remote from the infusion pump").

Applicant asserts that the Examiner's interpretation of De La Huerga is incorrect. A processor that links to a communication channel such as the Internet for communication with other devices does not act as a "web server", but rather acts as a client of a web server. A web server is to be distinguished from a web client. One of ordinary skill in the art would readily recognize the distinction including that a web server delivers Internet content (e.g., web pages) to web clients.

Claim 14 distinguishes between a "web server" and a "web browser client device" in that the "the processor is configured to communicate with a web browser client device that is remote from the infusion pump". De La Huerga does not describe or contemplate that the infusion pump may perform web server functions for client devices remote from the pump. The pump in De La Huerga that is connected to the Internet does not deliver Internet content to web clients, and thus, does not equate to a "web server".

In fact, De La Huerga describes a separate conventional web server that provides information to the pump. For instance, De La Huerga describes that the pump obtains information via communication channel 255 and "a remote facility server/database". [0151]. Thus, the pump in De La Huerga does not act as a web server. Rather, the pump acts as a client of the remote facility server/database. Nowhere in De La Huerga is there a description of the pump acting as a web server. The description of other elements (e.g., the remote facility server/database) as performing the server function indicates that the pump would not perform server functions. One of ordinary skill in the art would not consider the pump in De La Huerga as a web server.

Zerhusen was not cited for any description of a pump acting as a web server. In fact, like De La Huerga, Zerhusen describes a separate conventional web server that provides information

to clients (e.g., computers). For instance, Zerhusen describes system 2000 generally includes a central server 2002, a network 2004, and a plurality of client devices 2006. The server 2002 communicates with network 2004 to transmit signals to and receive signals from a plurality of client devices 2006. (col. 27, ln. 17-37; Fig. 129).

Thus, because the combination of De La Huerga and Zerhusen does not describe an infusion pump comprising "a processor that acts as a web server disposed in the pump housing, wherein the processor is configured to communicate with a web browser client device that is remote from the infusion pump", as in claim 14, the combination does not render claims 14-19 and 21-23 obvious.

Applicant requests withdraw of the rejection of claims 14-19 and 21-23 under 35 U.S.C. § 103 as being unpatentable over De La Huerga and Zerhusen.

**B. The combination of De La Huerga and Zerhusen does not describe an infusion pump comprising "a unitary dual function touch screen display located on the pump housing and in communication with the processor, wherein the dual function touch screen display comprises a first portion and a second portion, wherein the first portion is configured to display a pump information screen and wherein the second portion is configured to concurrently display a web browser screen," as recited in independent claim 14.**

The Examiner stated that De La Huerga describes a unitary display located on the pump that displays parameter settings. (*Office Action*, 12.30.10, p. 4). The Examiner stated that De La Huerga describes touch screen keys on a computer that communicates with the pump, but does not teach that the pump is a "dual function touch screen display", or a "second portion is configured to concurrently display a web browser screen," as recited in claim 14. (*Id.*).

The Examiner stated that the secondary reference to Zerhusen describes a touch screen with two portions displayed simultaneously by alleging that a first portion is met by element 630 and the second portion is met by element 632 in Figure 43. (*Office Action*, 12.30.10, p. 5). The

Examiner stated that the second portion is configured to "display an Internet icon that actuates a customized home page or other Internet connection". (*Id*).

The Examiner's interpretation of Zerhusen in view of the claims is incorrect because Zerhusen fails to describe an infusion pump including these claim limitations.

First, Zerhusen does not describe an infusion pump comprising "a unitary dual function touch screen display located on the pump housing", as in claim 14. Zerhusen describes a general patient/nurse computer that may include a touch screen display. There is no description in Zerhusen of an infusion pump that includes "a unitary dual function touch screen display located on the pump housing".

Second, Zerhusen does not describe an infusion pump where a second portion of a screen display "is configured to concurrently display a web browser screen," as in claim 14. The cited portion of Zerhusen that is alleged to describe this claim limitation again is not directed to an infusion pump, but rather, is directed to a general patient/nurse computer (e.g., Figure 43 in Zerhusen illustrates a display of a general computer with a plurality of computer icons (caregiver icons 630 and patient icons 632—one of which is an Internet icon 658) (col. 14, ln. 3-12)). Zerhusen is silent regarding an infusion pump comprising a display "configured to concurrently display a web browser screen," as in claim 14.

Moreover, the combination of De La Huerga and Zerhusen still fails to encompass the pending claims. De La Huerga describes an infusion pump displaying pump data and Zerhusen describes a patient/nurse general computer displaying Internet icons. To modify De La Huerga in view of Zerhusen would result in modifying the patient/nurse computer stations of De La Huerga (e.g., controller 260 in Figure 26) to display Internet icons. The resulting combination does not change/modify any aspects in De La Huerga of components of the infusion pump that

are included within the pump housing. The resulting combination simply includes no description of an infusion pump displaying a web browser screen.

Thus, because the combination of De La Huerga and Zerhusen does not describe an infusion pump comprising a display "configured to concurrently display a web browser screen," as in claim 14, the combination does not render claims 14-19 and 21-23 obvious.

Applicant requests withdraw of the rejection of claims 14-19 and 21-23 under 35 U.S.C. § 103 as being unpatentable over De La Huerga and Zerhusen.

**C. The combination of De La Huerga and Zerhusen does not describe an infusion pump comprising a display "wherein the first portion is configured to display a pump information screen and wherein the second portion is configured to concurrently display a web browser screen," as recited in independent claim 14.**

Neither De La Huerga nor Zerhusen describes concurrently displaying "a pump information screen" and "a web browser screen," on an infusion pump display, as in claim 14. The Examiner cited to De La Huerga for description of a pump that displays pump data, and to Zerhusen for description of a general computer that displays an Internet icon, and stated that it would have been obvious to combine the teachings of De La Huerga and Zerhusen because each element merely would have performed the same function as it did separately. (*Office Action*, 12.30.10, p. 5).

Applicant asserts that combining a general purpose computer display with an infusion pump display does not result in concurrently displaying "a pump information screen" and "a web browser screen," on an infusion pump display, as in claim 14. There is no description or mention within the combination of De La Huerga and Zerhusen of "concurrently" displaying these two pieces of information on one display. The cited references that describe to independently display these pieces of information on two separate and different devices do not contemplate a unitary

dual function touch screen display in a pump housing for "concurrently" displaying the claimed information.

Given the failure to show that the cited references disclose "concurrently" displaying the claimed information on one unitary display, the Office has failed to carry its burden of proving that the claimed invention would have been obvious to one of skill in the art. *See e.g., Honeywell Int'l, Inc. v. United States*, 609 F.3d 1292, 1300-1301 (Fed. Cir. 2010) (the claimed invention was held non-obvious since the cited references did not disclose all elements of the claims).

In addition, to combine De La Huerga and Zerhusen such that each performs the same function as it did separately, as asserted by the Examiner, results in an infusion pump displaying pump data (described by De La Huerga) that connects to a general purpose computer display that displays an Internet icon (described in Zerhusen). This resulting combination does not result in the claimed concurrent display of "a pump information screen" and "a web browser screen," on an infusion pump display that is included within a pump housing, as in claim 14.

Thus, because the combination of De La Huerga and Zerhusen does not describe an infusion pump comprising a display configured to concurrently display "a pump information screen" and "a web browser screen" as in claim 14, the combination does not render claims 14-19 and 21-23 obvious.

Applicant requests withdraw of the rejection of claims 14-19 and 21-23 under 35 U.S.C. § 103 as being unpatentable over De La Huerga and Zerhusen.

**IV. Response to Rejection of Claim 20 under 35 U.S.C. § 103**

Claim 20 was rejected under 35 U.S.C. § 103 as being unpatentable over US Pub. 2002/0038392 (De La Huerga) in view of USP 7,154,397 (Zerhusen) and USP 6,208,974 (Campbell). Campbell was cited for a description of a "caregiver task list". However, Campbell does not make up for the deficiencies of the combination of De La Huerga and Zerhusen, as described above.

Thus, because the combination of De La Huerga, Zerhusen, and Campbell does not describe all limitations of independent claim 14, dependent claim 20 is not obvious in view of the combination.

**V. Conclusion**

Applicant respectfully requests a Notice of Allowance of the pending claims. The Examiner is invited to call the undersigned with any questions, comments or suggestions if such would expedite allowance of the claims.

Respectfully submitted,

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